

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 7257**

**BILL NUMBER:** HB 1582

**NOTE PREPARED:** Jan 14, 2013

**BILL AMENDED:**

**SUBJECT:** Nuisance Actions.

**FIRST AUTHOR:** Rep. Baird

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:**     **GENERAL**  
                              **DEDICATED**  
                              **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** The bill amends the definitions of "agricultural operation" and "locality" for purposes of the laws governing nuisance actions.

It provides that if a plaintiff's subsequent nuisance case against a defendant is successful that the court must enter a finding of a permanent nuisance.

It also provides that in a successful nuisance case against an agricultural operation the court may not order the agricultural operation to mitigate the effects of the nuisance if the mitigation would substantially and adversely affect the economic viability of the agricultural operation, unless the agricultural operation's nuisance is creating a substantial threat to the public health or safety.

The bill provides that the damages awarded for a nuisance action are limited to the decrease in the fair market value of the plaintiff's property caused by the nuisance.

The bill removes certain policy statement provisions concerning agricultural operations and nuisance suits.

It provides that an agricultural or industrial operation or any of its appurtenances is not and does not become a nuisance if the operation has been continuous for more than one year and there is no significant change in the type of operation. (Current law requires that the operation has been continuously on the locality for more than one year if there is no significant change in the type of operation.)

The bill removes provision that provides that an agricultural or industrial operation or any of its appurtenances

is not and does not become a nuisance if the operation would not have been a nuisance at the time the agricultural or industrial operation began on that locality.

**Effective Date:** July 1, 2013.

**Explanation of State Expenditures:** *Court Fee Revenue:* If additional civil actions occur and court fees are collected because of changes to definitions in the bill, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use to assist with pro bono legal services programs in Indiana. And proceeds from the automated record keeping fee (\$5) are deposited into the state User Fee Fund.

Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge, depending upon the particular type of case.

Persons filing a civil case are also required to pay the following fees that are deposited in local funds.

The document storage fee (\$2) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- Document fees (\$1 per document) are charged for preparing transcripts or copies of record or certificate under seal.
- Service fee (\$10) collected from the filing party for each defendant beyond the first cited in the lawsuit.

**State Agencies Affected:**

**Local Agencies Affected:** Trial courts, city and town courts.

**Information Sources:**

**Fiscal Analyst:** Karen Firestone, 317-234-2106.